

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ROBERT FABIAN,

Plaintiff,

v.

Case No. 09-02305

FULMER HELMETS, INC.,

Defendant.

ORDER DENYING MOTION FOR LEAVE TO INTERVENE

On September 16, 2012, two days before the Fairness Hearing in this case, Movants Kolman Ely, P.C., and David J. Cohen filed a motion for leave to intervene in this matter in order to assert an attorneys' lien. Movants requested that the court exercise ancillary jurisdiction over their fee dispute. Their motion makes clear that they have been aware of this matter for some time, as they seek fees for work performed in this matter between January 2010 and August 2011. The court has reviewed the motion and finds that Movants have not established they are entitled to intervention as of right under Federal Rule of Civil Procedure 24(a). Specifically, the court is not persuaded that the Movants submitted their application to intervene in a timely fashion or that the Movants could not seek relief in another forum. *See Mich. State AFL-CIO v. Miller*, 103 F.3d 1240, 1245 (6th Cir. 1997) (citing *Cuyahoga Valley Ry. Co. v. Tracy*, 6 F.3d 389, 395 (6th Cir.1993)). The court also declines to exercise supplemental, or ancillary, jurisdiction over the attorney fee dispute. Put simply, the court is not inclined

to entertain motions such as these which are submitted at the eleventh hour of a case.

Accordingly,

IT IS ORDERED that the motion for leave to intervene is DENIED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: September 24, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, September 24, 2012, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522